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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 UNITED STATES OF AMERICA,)
09 Plaintiff,) CASE NO. CR00-272-JCC
10 v.)
11 JOSEPH JONATHAN JAMES,) SUMMARY REPORT OF U.S.
12 Defendant.) MAGISTRATE JUDGE AS TO
ALLEGED VIOLATIONS
OF SUPERVISED RELEASE
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14 An evidentiary hearing on supervised release revocation in this case was scheduled before
15 me on May 24, 2010. The United States was represented by AUSA Jeffrey Backhus and the
16 defendant by Ralph Hurvitz. The proceedings were digitally recorded.

17 Defendant had been sentenced on or about August 23, 2001 by the Honorable John C.
18 Coughenour on a charge of Second Degree Murder within Indian Country, and sentenced to 108
19 months custody, 5 years supervised release. (Dkt. 101, 116.)

20 The conditions of supervised release included the standard conditions plus the
21 requirements that defendant be prohibited from possessing a firearm, submit to mandatory drug
22 testing, participate in a substance abuse program, abstain from alcohol, submit to search,

01 participate in a mental health program, provide financial information to his probation officer upon
02 request, maintain a single checking account for all financial transactions, disclose all business
03 interests to his probation officer, disclose all assets and liabilities, not possess any identification
04 documents in any but his true identity, not associate with known gang members, and be
05 prohibited from entering the Lummi Indian Reservation without authorization if his membership
06 is abolished and he is excluded from the reservation.

07 On May 23, 2008, defendant admitted violating the conditions of supervised release by
08 failing to report a change in residence and failing to report to the probation officer as instructed.
09 (Dkt. 126). Defendant was sentenced to time served. (Dkt. 130.) On July 17, 2008, defendant's
10 probation officer reported that defendant had testified positive for cocaine. No action was
11 recommended at the time. (Dkt. 131.)

12 On October 3, 2008, defendant admitted violating the conditions of supervised release by
13 consuming alcohol on two occasions, and failing to participate as instructed in the home
14 confinement program with electronic monitoring. Judge Donohue recommended that defendant
15 be found to have further violated the conditions of supervised release by committing the crime
16 of assault and battery third degree, as alleged. (Dkt. 142.) Defendant was sentenced to five
17 months in custody, to run consecutive with the sentence imposed by the tribal court, followed
18 by 50 months supervised release including 180 months home confinement. (Dkt. 146.)

19 In an application dated April 16, 2009 (Dkt. 148,149), U.S. Probation Officer Calvin K.
20 Bouma, Jr. alleged the following violation of the conditions of supervised release:

21 1. Failing to report a change in residence as instructed, in violation of standard
22 condition No. 6.

01 Defendant was advised in full as to the charge and as to his constitutional rights. An
02 evidentiary hearing was conducted, consisting of the testimony of U.S. Probation Officer Jerrod
03 Akins. Mr. Akins testified that defendant was released to a clean and sober residence from
04 Pioneer Residential Reentry Center on April 3, 2009. Mr. Akins attempted to contact defendant
05 at the residence on April 15, 2009, and was informed by the manager of the residence that
06 defendant had not been at the residence since April 9, 2009. The defendant did not contact his
07 probation officer to report a new residence address.

08 I find that a preponderance of the evidence established that the defendant violated the
09 conditions of supervised release by failing to report a change in residence as instructed, in
10 violation of standard condition No. 6.

11 I therefore recommend the Court find defendant violated his supervised release as alleged,
12 and that the Court conduct a hearing limited to the issue of disposition. The next hearing will be
13 set before Judge Coughenour.

14 Pending a final determination by the Court, defendant has been detained.

15 DATED this 24th day of May, 2010.

16 

17 Mary Alice Theiler
18 United States Magistrate Judge

19 cc: District Judge: Honorable John C. Coughenour
AUSA: Jeffrey Backhus
20 Defendant's attorney: Ralph Hurvitz
Probation officer: Jerrod Akins
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